

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

AMANDA OLESEN,

Plaintiff,

vs.

PRIME HEALTHCARE
FOUNDATION, INC. d/b/a
PAMPA REGIONAL MEDICAL CENTER;
and MARK S. HENDERSON, M.D.,

Defendants.

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CIVIL ACTION NO.

**DEFENDANT PRIME HEALTHCARE FOUNDATION, INC.’S
NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332(a), 1441, and 1446, Defendant Prime Healthcare Foundation, Inc. (“Prime”) files this Notice of Removal (“Notice”), and removes this action from the 223rd Judicial District Court of Gray County, Texas to the United States District Court for the Northern District of Texas, Amarillo Division, on the following grounds:

I. STATE COURT ACTION

1. Plaintiff Amanda Olesen (“Plaintiff”) filed her Original Petition solely against Defendant Mark S. Henderson, M.D. (“Dr. Henderson”) on February 24, 2017 in the 223rd Judicial District Court of Gray County, Texas. (Ex. B-1) On June 20, 2017, Plaintiff filed a First Amended Petition adding Prime as a Defendant in the case. (Ex. B-9)

2. According to Plaintiff’s First Amended Petition, Plaintiff is a resident of Pampa, Gray County, Texas. (Ex. B-9 at ¶ 2.02)

3. Dr. Henderson is a citizen of Lawton, Comanche County, Oklahoma.

4. Prime is a Delaware non-profit corporation with its principal place of business in Ontario, California. (*See* Ex. B-9 at ¶ 2.04)

II. REMOVAL TO THIS COURT IS PROPER

5. **Jurisdiction.** 28 U.S.C. § 1332 grants district courts original jurisdiction over civil actions where (1) the matter is between citizens of different states and (2) the amount in controversy exceeds \$75,000, exclusive of interest and costs. As set forth below, these requirements are met here, and the Court has jurisdiction over this action.

6. **Complete Diversity Exists.** Removal to this Court is proper because complete diversity exists between the parties. For diversity jurisdiction purposes, Plaintiff is a citizen of Texas, Dr. Henderson is a citizen of Oklahoma, and Prime is a citizen of California. (*See* Ex. B-9 at ¶ 2.04). None of the parties are citizens of the same state, and therefore, there is complete diversity of citizenship. *See* 28 U.S.C. § 1332(a), (c). No other parties have been joined in this action.

7. **The Amount in Controversy Exceeds \$75,000.** The amount in controversy in the State Court Action exceeds the sum or value of \$75,000, exclusive of interests or costs. *See* 28 U.S.C. § 1332(a).

8. Plaintiff sued Dr. Henderson and Prime for negligence related to alleged complications from a surgery on Plaintiff's appendix. (*See* Ex. B-9) Plaintiff claims she developed a postoperative abscess, needed additional surgery, and spent seven (7) days in the hospital as the result of Defendants' conduct. (Ex. B-9 at ¶¶ 7.16-7.23) While Plaintiff failed to plead the amount of damages sought as required by Texas Rule of Civil Procedure 42, she did

state that she has “suffered substantial injuries and the following damages, the value of which far exceeds the minimum jurisdictional limits of this court:

- a. Pain and Suffering past and future
- b. Mental Anguish past and future
- c. Physical Impairment past and future
- d. Medical Charges past and future
- e. Disfigurement past and future
- f. Lost wages
- g. Loss of earning capacity
- h. Exemplary damages
- i. Pre-judgment and Post-judgment interest
- j. Court costs.”

(Ex. B-9 ¶ 10.32). Based on the nature of Plaintiff’s claims and the damages she seeks in her First Amended Petition, it is facially evident that the amount in controversy exceeds \$75,000.

III. REMOVAL IS TIMELY

9. Service of the state court lawsuit was perfected on Prime on June 20, 2017. Service of process was perfected on co-defendant Mark Henderson, M.D. on March 29, 2017. (*See* Ex. B-8, B-12)

10. Accordingly, this Notice is timely filed within thirty (30) days of Prime’s receipt of the First Amended Petition. *See* 28 U.S.C. § 1446(b)(1).

IV. CONSENT TO REMOVAL

11. As indicated in the Certificate of Consent attached hereto as **Exhibit A**, Defendant Mark D. Henderson, M.D. consents to the removal of this action to this Court.

V. COMPLIANCE WITH LOCAL RULES

12. Pursuant to Local Rule 81.1(a)(4)(A), an index of all documents previously filed in state court that clearly identifies each document, and also indicates the date each document was filed is attached hereto as **Exhibit B**.

13. Pursuant to Local Rule 81.1(a)(4)(C), attached hereto as **Exhibits B-1 to B-15** are copies of each document filed in the state court action.

14. Pursuant to Local Rule 81.1(a)(4)(B), a copy of the docket sheet in the state court action is attached hereto as **Exhibit C**.

15. Pursuant to Local Rule 81.1(a)(4)(D), attached hereto as **Exhibit D** is a signed Certificate of Interested Persons on behalf of Prime Healthcare Foundation, Inc..

16. The filing fee of \$400.00 has been paid to the Clerk along with this filing.

VI. CONCLUSION

17. Defendant Prime Healthcare Foundation, Inc. respectfully requests that this proceeding be placed on the docket of the United States District Court for the Northern District of Texas, Amarillo Division.

Respectfully submitted,

/s/ Rodney H. Lawson

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*Attorneys for Defendant Prime Healthcare
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Certificate of Service

The undersigned certifies that a copy of the foregoing instrument was served upon the attorneys of record in the above cause in accordance with Federal Rule of Civil Procedure 5 via electronic service on this 19th day of July, 2017.

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/s/ Rodney H. Lawson

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